MEMORANDUM

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| TO: | MOEC | DATE: | 10/24/2011 |
| FROM: | O’Neill and Associates |  |  |
| REGARDING: | Senate Legislation | | |
| CC: |  | | |

Section 1:

1. Board shall be made up of 1 person appointed by each school district, 1 person appointed by each member charter school board, and 1 person appointed by the Commissioner. With the exception of the Commissioner’s appointment, all persons shall be a school committee member, superintendent of the school, or a member of the charter school board. However, a school committee may appoint an alternative member to ensure that the board has the appropriate mix of skills and expertise.
2. The Board shall meet 6 times per year and each member is entitled to a vote
3. Each member shall complete training within 3 months of appointment. DESE will develop and provide training, with input from MASC, MASS, and MOEC
4. Board members shall file disclosure annually with the state ethics commission, within 30 days of becoming a board member and on or before September 1 each year.
5. No board member or manager-level employee at a Collaborative shall serve as a board member or manager-level employee at a related non-profit.

Section 2:

1. The Board of Elementary and Secondary Education shall promulgate regulations setting the approval process for Collaboratives.
2. The written agreement shall address:
   1. Purpose of program or service
   2. Financial terms and conditions for membership of Collaborative
   3. Method of termination of the Collaborative and withdrawal of member communities
   4. Procedure for admitting new members and amending the agreement
   5. Powers and duties of the Board of Directors to operate and manage the Collaborative
   6. Other matters deemed advisable
3. The agreement is subject to approval of member school committees, charter boards, commission of DESE.
4. The Board of Education may revoke an approval if the Collaborative has not fulfilled any conditions or has violated provisions of the agreement
5. A collaborative may be placed on a probationary status to allow implementation of a remedial plan
6. Board of DESE may maintain a written policy of Collaboratives, which shall be updated every 5 years.

Section 3:

1. Board of DESE shall issue regulations prescribing guidelines on the retention of surplus money in the fund

Section 4:

1. Educators (including teacher, guidance counselor, school psychologist, social worker, nurse, library specialist, principal, director, etc) may not be considered for employment if they have not been granted a certificate by the Board of education or an approval under the regulations promulgated by the Board.
2. This section does not prevent a Board of Directors from imposing additional requirements of certifications for other employment categories

Section 5:

1. Each Collaborative shall submit an annual report to the Commissioner of DESE, member school committees, member charter board, and parents of enrolled students. This report shall be issued not later than August 1 for the preceding school year.
2. The report shall include the following two requirements:
   1. Discussion of progress made towards stated purpose of written agreement
   2. Financial statement based on most recent audited financial statements
3. Each Collaborative shall keep an accurate account of all activities, receipts, expenditures and shall annually perform an independent audit. The audit shall result in an audited financial statement prepared by accepted accounting principles prescribed by the American Institute of Certified Public Accountants. The audit will include information on the following areas:
   1. Transactions between Collaboratives and related non-profit
   2. Transactions or contracts related to real property, rentals, or lease agreements
   3. Salary changes made to employees and accompanying responsibility changes
   4. Percentage of budget on administrative expenses
   5. Any accounts held by Collaboratives that may be discretionarily spend by another person or entity
   6. Division of costs and expenditures for services for individuals under age 22 and over age 22
4. Each member of the Board shall present the annual audit to its member school district. Each member shall certify that that member has read and reviewed the statement and if the information is complete.
5. Commissioner of DESE, member school committees, member charter board shall certify receipt of the audit to the State Auditor within 45 days. DESE may develop an agreement with the Auditor to assist in the review of financial components. The State Auditor may investigate the budget and finances of the Collaboratives. DESE is responsible for making the audit information publicly available.
6. If the audited financial statements are not filed within 9 months of the end of the Collaborative’s fiscal year, the Commissioner shall notify the State Auditor and the Commissioner may suspend the Collaborative’s authorization to operate, effective at the close of the current school year or at such time the Commissioner deems.
7. The Commissioner shall notify the State Auditor of any irregularities in an audited financial statement. Guidelines will be developed governing the review of financial statements and types of irregularities warranting notification to the State Auditor.
8. The Trustees or governing board of related non-profits shall file a copy of the written annual report with the Commissioner within 10 days of filing the report with the Attorney General.
9. The Board of DESE will develop regulations to ensure that Collaboratives enter into agreements only with related non profits that are able to implement their stated goals in a manner that is cost effective and transparent. Regulations will include:
   1. Restricting payments from a Collaborative to a nonprofit whose administrative costs exceed a specified percentage of the organization’s total budget,
   2. Restricting payments by a Collaborative to a nonprofit whose revenues attributable directly to an educational collaborative exceed a specified percentage of the organization’s total revenues.
10. All contracts for procurement shall be subject to Chapter 30B
11. Each Collaborative shall be reviewed by DESE on a periodic basis, but not less frequently that every 6 years. Reviews will include:
    1. Compliance with written agreement
    2. Conditions imposed by Board of DESE
    3. Requirements of this section
    4. Other applicable state and federal laws
12. Related non profits shall mean an organization established under law whose:
    1. Primary purpose is to benefit the purposes of the Collaborative or that receives on average over a 3 year period more than 50 percent of its funding from 1 or more collaborative
    2. Engages in business transactions or business arrangements, including pledges or assignments of collateral and loan guarantees with the Collaboratives

Section 6:

1. Amends Section 5 of Chapter 268A of General Laws by inserting provision that a former board member or manager level employee who accepts employment with a related nonprofit organization for a period of 1 year after the individual leaves the Collaborative.

Section 7:

1. The Board of DESE shall update its policy on Collaboratives to ensure compliance with this act by June 30, 2012.

Section 8:

1. Each Collaborative shall prepare a report of all services it provides to individuals not enrolled in or employed by elementary or secondary schools in the Commonwealth. The report shall include:
   1. Scope of services provided
   2. Cost or and revenue source for these services
   3. Referral and enrollment procedures for these services
2. Each Collaborative shall complete its report by March 1, 2012 and file with the Commissioner of DESE, Commissioner of Developmental Services, State Auditor, Attorney General, House and Senate Chairs of the Joint Committee on Education, House and Senate Chairs of the Joint Committee on Families, Children, and Persons with Disabilities and the Chairs of the House and Senate Committees on Ways and Means
3. There will be a special commission to investigate services provided by Collaboratives and nonprofit organizations to individuals not enrolled in or employed by a school. The Commission shall consist of the Commissioner of DESE, Commissioner of Developmental Services, State Auditor, Attorney General, House and Senate Chairs of Education, House and Senate Chairs of the Joint Committee on Families, Children, and Persons with Disabilities, an advocate for the developmentally disabled individuals selected by the Commissioner from a list of 3 nominated by The Arc of Massachusetts and the Association of Developmentally Disabilities Providers, and a parent of an individual with special needs age 22 or above selected by the Commissioner.
4. The investigation shall include:
   1. Whether Collaboratives are appropriate settings for providing services to special needs adults
   2. What certification procedures would be appropriate for Collaboratives and related non-profits that provide services to individuals not enrolled in an elementary or secondary school
   3. What measures should be taken to ensure proper accounting and funding for all services provided by Collaboratives and non profits for these individuals
   4. Other methods for providing cost-effective delivery of services to this population
5. The Commission shall report its activities, findings, and recommendations to the Clerks of the house and senate by June 30, 2012

Section 9:

1. There will be a commission to study and make recommendations on the appropriate role and organizational structure of Collaboratives. The Commission shall address the advisability of modifying the role and the appropriate responsibilities, limitations, and structure in the event of modification.
2. The Commission shall consist of the Commissioner of DESE, MOEC, 8 people appointed by the Secretary of Education, 2 of whom shall serve as ED of a collaborative, 2 of whom selected from a list from MASS, 2 of whom selected from a list from MASC, 1 of whom selected from a list from MTA, and 1 of whom selected from a list from AFT.
3. The Commission shall conduct its first meeting not less than 30 days after this legislation goes into effect and shall issue its final report to the senate and house chairs of the joint committee on education, and the clerks of the House and Senate on its study and recommendation together with drafts of legislation to carry out such recommendations not later than September 1, 2012.

Section 10:

1. Section 8 goes into effect on February 1, 2012.